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Attorneys for Plaintiff and Counter-defendant Calista Enterprises Ltd.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON – PORTLAND DIVISION

**CALISTA ENTERPRISES LTD.,**  
a Republic of Seychelles company,

Plaintiff/Counter-defendant,

- v. -

**TENZA TRADING LTD.,**  
a Cyprus company,

Defendant/Counterclaimant.

Case No. 3:13-cv-01045-SI

NOTICE OF VIDEO DEPOSITION OF  
TENZA TRADING LTD. PURSUANT TO  
FED. R. CIV. P. 30(B)(6) AND 45

Date: February 5-6, 2014

Time: 9:00am

Place: Hotel Casa Camper Barcelona  
Carrer d'Elisabets Elisabets 11  
08001 Barcelona, Spain

TO TENZA TRADING LTD. AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Fed. R. Civ. P. 30(b)(6) and 45, Plaintiff and Counter-defendant Calista Enterprises Ltd. (“Calista”) will take the deposition upon oral

examination of the person or persons designated by Tenza Trading Ltd. ("Tenza") as knowledgeable about the topic categories identified in Exhibit A, attached hereto. At least one week in advance of the deposition, Calista requests that Tenza provide written designation of the name(s) and position(s) of the person(s) designated and the topics/matters on which each person will testify. Calista reserves the right to review the topics listed in Exhibit A.

Documents requested in Exhibit B will be produced at said deposition. Said deposition will take place at the Hotel Casa Camper Barcelona, Conference Room, Carrer d'Elisabets Elisabets 11, 08001 Barcelona, Spain, before a notary public or other person authorized to administer oaths, commencing at 9:00am on February 5, 2014, and will continue from day to day, until completed or continued in the sole discretion of Calista. Said deposition will be recorded stenographically, by videotape, and via real-time computer transcription.

PLEASE TAKE FURTHER NOTICE that deponent is required to notify Calista's counsel no later than fifteen (15) days prior to the deposition date the need for an interpreter to translate the deposition questions and answers, and specific language and/or dialect for which the interpreter is required.

<u>/s/ Matthew Shayefar</u>	<u>01/10/2014</u>
Matthew Shayefar	Date
Valentin Gurvits	
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<i>Pro Hac Vice</i>	

**Definitions and Instructions**

1. The terms “you,” “your” and “Tenza” mean Tenza Trading Ltd., as well as its agents, representatives, employees, attorneys, attorneys’ agents, and anyone else acting on its behalf.

2. “Calista” means Calista Trading Ltd., as well as its agents, representatives, employees, attorneys, attorneys’ agents, and anyone else acting on its behalf.

3. The “Putative Mark” means the PORNTUBE mark which Tenza alleges in its Counterclaim that Calista has infringed.

4. The “Registration” means U.S. Trademark Registration Number 3,936,197.

5. The “Accused Domains” means the thirteen domain names at issue in this litigation.

6. “Person” refers to and includes natural persons, corporations, partnerships, proprietorships, joint ventures, unincorporated associations, trusts, estates, governments (and agencies thereof), quasi-public entities and all other forms of specifically identifiable legal entities.

7. “Date” means the exact day, month and year, if ascertainable; if not ascertainable, the closest approximation that can be made by means of relationship to other events, locations or matters.

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includes, but is not limited to, the following: agreements, contracts, correspondence, letters, telegrams, facsimiles, wires, cables, reports, emails, schedules, diaries, blueprints, sketches, charts, models, invoices, purchase orders, ledgers, journals, checks, check stubs, profit and loss statements, balance sheets, budget analyses and reports, notes, estimates, summaries, desk calendars, work papers, business forms, studies, appointment books, time sheets, logs, inventories, printouts, computer storage media, recordings, minutes of meetings, and memoranda, including inter corporate, intra corporate, inter office, and intra office memoranda and memoranda regarding conferences, conversations or telephone conversations, and any and all other written, printed, typed, punched, or electronic recorded matter of whatsoever kind and description, including drafts of any of the foregoing.

9. “Thing” means any tangible object other than a document, and includes objects of every kind and nature such as, but not limited to, models, samples, prototypes and commercial units, in each case, whether complete or not, or functional or not.

10. The terms “concerning,” “regarding,” “referring,” “referencing” or “relating” includes referring to, alluding to, responding to, relating to, connected with, commenting upon, in respect of, about, regarding, discussing, showing, describing, reflecting, analyzing, touching upon, constituting and being.

11. “Communication” means the transmittal of information in the form of facts, opinions, ideas, inquiries, or otherwise, whether oral or written , and shall include any meeting, telephone call, conversation, letter, memorandum, document, or other form of communications, whether verbal or nonverbal.

12. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the request all responses that might otherwise be construed to be outside of its scope.

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14. With respect to each document otherwise responsive to a request in Exhibit B, but withheld on the ground of an asserted privilege, please identify with respect to each such document the following information: (a) the exact nature and scope of the privilege asserted; (b) the date of the document; (c) the identity of the author of the document; (d) the identity of the person who received the original of the document; (e) the identity of each person who received a copy of the document; and (f) the subject of the document.

**EXHIBIT A**

**TOPIC CATEGORY NO. 1** - The results of any searched on the terms “porntube” or “porn tube” that you have conducted using Google, Bing or other internet search engines, including when they were done, whether the person or persons conducting the search was or were signed in to an account on the search engine when the search or searches were conducted, and what actions, if any, were taken by Tenza in response to the information obtained from the search or searches.

**TOPIC CATEGORY NO. 2** - The details of Tenza’s purchase and/or receipt of the Putative Mark and the porntube.com domain name from EMC Ideas, Inc., including the individuals involved in the transaction on both sides, the terms of any and all agreements between the parties, whether the transaction was an arms-length transaction, whether the two companies have any overlap in ownership, management or employees, and what due diligence Tenza performed on the strength and/or validity of the Putative Mark prior to gaining control/ownership of it.

**TOPIC CATEGORY NO. 3** - All inquiries, due diligences, surveys, evaluations, investigations and studies conducted by Tenza or EMC Ideas, Inc. (or anyone acting for or on their behalf) that refer or relate in any manner to the Putative Mark.

**TOPIC CATEGORY NO. 4** - Efforts taken by Tenza to enforce any trademark or related rights in the Putative Mark, including the issuance of any cease-and-desist demands or letters, the

institution of arbitration (including UDRP proceedings), and the filing of lawsuits against third parties in any jurisdiction. Deponent should be aware of all dates for each effort.

**TOPIC CATEGORY NO. 5** - The relationship between Tenza and Calista prior to the institution of the UDRP proceedings by Tenza against Calista, including the services performed by each party, the compensation of each party, the individuals at each party responsible for the relationship and communications between the parties.

**TOPIC CATEGORY NO. 6** - The operation and capabilities of the porntube.com website affiliate program, including its technical capabilities, the number of affiliates in the program, the amounts paid to affiliates, the number of visitors received through the affiliate program, affiliate relations, marketing and promotional efforts for the affiliate program.

**TOPIC CATEGORY NO. 7** - The PORNOTUBE mark and Tenza's actions and omissions related thereto, including any and all agreements between Tenza (or its predecessor-in-interest EMC Ideas, Inc.) and WMM Holdings, LLC (or any predecessor-in-interest to the PORNOTUBE mark.

**TOPIC CATEGORY NO. 8** - The damages that Tenza contends it has sustained from the unlawful conduct that Tenza attributes to Calista.

**TOPIC CATEGORY NO. 9** - DreamStar Cash SL, including Tenza's relationship with that entity and that entity's relationship with the porntube.com website and the porntube.com website affiliate program.

**TOPIC CATEGORY NO. 10** - Tenza's marketing, advertising and promotional efforts for all services and products offered by Tenza under the Putative Mark.

**TOPIC CATEGORY NO. 11** - Tenza's selection and use of the Putative Mark, the porntube.com domain name, the nature of the Putative Mark, and the Registration.

**TOPIC CATEGORY NO. 12** - Tenza's awareness of Calista's alleged use of the Putative Mark in any context prior to April of 2013.

**TOPIC CATEGORY NO. 13** - Demographic information about the visitors to the porntube.com website, including such characteristics as gender, age, hobbies, interests, occupation, as well as any tracking of these data by Tenza.

**TOPIC CATEGORY NO. 14** - For the period from 2005 to the present, identification of all personnel who are employed by, contracted to, or otherwise perform services for Tenza, including the position held, services performed, reporting hierarchy and contact information.

**TOPIC CATEGORY NO. 15** - The date and circumstances under which Tenza first became aware of each of the Disputed Domains.

**TOPIC CATEGORY NO. 16** - The source and amount of all income to Tenza in connection with the Putative Mark from 2005 to the present.

**TOPIC CATEGORY NO. 17** - The identity of all persons and/or entities who have an ownership interest in, or otherwise receive income from, Tenza from 2005 to the present.

**TOPIC CATEGORY NO. 18** - The information provided by Tenza in its Fed. R. Civ. P. 7.1 Statement; namely, who and what is Tenza, who makes its decisions, and all persons involved in the business of Tenza.

**TOPIC CATEGORY NO. 19** – Any instances of actual consumer confusion between Calista’s websites, products and/or services and Tenza’s websites, products and/or services or instances wherein consumers have questioned, suggested, implied or inferred any connection between Calista and Tenza.

**TOPIC CATEGORY NO. 20** - Licensing of the Putative Mark.

**EXHIBIT B**

**DOCUMENT REQUEST NO. 1** - All documents concerning, referencing, referring or relating to you obtaining and/or purchasing the Putative Mark, the Registration and all rights related thereto, including any documents related to due diligence conducted in connection with obtaining and/or purchasing the Putative Mark.

**DOCUMENT REQUEST NO. 2** - All documents concerning, referencing, referring or relating to pornotube.com, the PORNOTUBE mark or the owner of either, and any communications between you on the one hand and the registrant of the PORNOTUBE mark on the other hand.

**DOCUMENT REQUEST NO. 3** - All documents constituting, concerning, referencing, referring or relating to legal actions (including lawsuits, cease and desist letters, UDRP proceedings and arbitration proceedings) taken by you or any predecessor of interest (including EMC Ideas, Inc.) in the Putative Mark, relating to or concerning the enforcement of the Putative Mark, in any jurisdiction.

**DOCUMENT REQUEST NO. 4** - All communications, or documents referencing communications, with any person whom you have alleged has infringed the Putative Mark.

**DOCUMENT REQUEST NO. 5** - All documents constituting, concerning, referencing, referring or relating to any communication, oral or written, received by Tenza from any person

which suggests, implies, or infers any connection or association between Tenza and Calista, or which inquires as to whether there is or may be such a connection or association.

**DOCUMENT REQUEST NO. 6** - All documents constituting, concerning, referencing, referring, relating or responding to any confusion between Calista's websites, products and/or services and Tenza's websites, products and/or services.

**DOCUMENT REQUEST NO. 7** - Documents sufficient to determine the month-to-month funds paid to affiliates of the porntube.com affiliate program and the identity of said affiliates.

**DOCUMENT REQUEST NO. 8** - Documents sufficient to determine the month-to-month number of visitors to the porntube.com website that arrived there through the porntube.com affiliate program.

**DOCUMENT REQUEST NO. 9** – All documents constituting, reflecting, referencing, referring or relating to payments you have made to Calista.

**DOCUMENT REQUEST NO. 10** - Documents sufficient to evidence all affiliations between Tenza and DreamStar Cash SL.

**DOCUMENT REQUEST NO. 11** - Documents sufficient to evidence all affiliations between Steve Matthysen and Tenza.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically via email on all counsel of parties of record this 10th day of January, 2014.

/s/ Matthew Shayefar  
Matthew Shayefar, Esq.

**Morrow, Beth**

---

**From:** Paul N. Tauger <pnt@eclipsegrp.com>  
**Sent:** Thursday, January 23, 2014 12:52 PM  
**To:** Matthew Shayefar; Val Gurvits; Sean Ploen  
**Cc:** Anna M. Vradenburgh; Newman, Devon Z.; Connie Limperis; Thomas Freedman  
**Subject:** Request for meet-and-confer

Dear Matt,

Your email of this morning was particularly well-timed, as I was preparing this email to you regarding the 30(b )(6) deposition notice of Tenza.

Though we have no objection to most of the topics, in the general sense, there are some specifics that we find problematic and, I suspect, they are the same specifics with which you have problems in our discovery responses. I'll enumerate them here:

**Topic Category 2:**

Though, of course, the nature of the transaction by which Tenza acquired ownership of the PORNTUBE trademark is clearly relevant, those portions of the topic that deal with the nature and structure of EMC Ideas, Inc. as well as Tenza, the respective ownership, employees, etc., are clearly not for the reasons explained below.

**Topic Category 4:**

This topic category is not objectionable, except that the request that "deponent should be aware of all dates for each effort," is sufficiently ambiguous as to preclude effective preparation. Could you please be specific as to what dates you wish to inquire?

**Topic Category 6:**

Neither the number of affiliates, nor the amounts paid to each of the affiliates, is not relevant to anything at issue in this litigation. We have disclosed in our written responses, and will be prepared to discuss, the amounts paid to affiliates, en masse, as that is relevant to our marketing expenditures. We will also be prepared to discuss (and have similarly disclosed) the amount paid by Tenza to Calista for Calista's participation in the program.

**Topic Category 7:**

The PORNOTUBE mark is not, in any way, relevant to anything at issue in this litigation. Tenza will not discuss it, or any other third-party mark, except in an appropriately relevant context, e.g. whether the existence of the third-party mark weakens the strength of Tenza's PORNTUBE mark, or a much more narrowed inquiry, i.e. "Was there any discussion or communication regarding whether Tenza's mark was generic or descriptive?" Incidentally, there was not, but you are free to ask in a formal context.

Also, please note that EMC Ideas, Inc. is not a party to this litigation and Calista has no basis for compelling its participation absent appropriate service of process. I would also observe that neither Mr. Cardone nor Mr. Mathyssen are parties to this litigation. They will, most likely, be the corporate designees for Tenza's 30(b)(6) deposition. They will be responding to the individual notices you served pursuant to your option to designate specific responsible individuals at a business as either an alternative, or in addition, to a corporate designee notice, as provided by the Federal Rules. Please note that this office does not represent Mr. Cardone nor Mr. Mathyssen, and cannot accept service of process on their behalf, i.e. Tenza is producing them pursuant to the notices which it construes as directed towards Tenza; they are not appearing as individuals. Though, of course, both will cooperate and provide testimony with respect to any and all matters at issue with respect to Tenza, either through Calista's Complaint or Tenza's Counterclaims,

neither will provide testimony on matters outside of this litigation, including their personal finances, their other business activities, their other employment, etc.

**Topic Category 11:**

It is unclear, from the wording of this question, upon what you wish to examine Tenza about with respect to “the Registration.” Could you please clarify so that our client can adequately prepare to respond?

**Topic Category 14:**

Calista’s action against Tenza is limited to declaratory relief; it has alleged no legally-cognizable basis for anything else. The specific declaratory relief sought is judgment of non-infringement and/or invalidity of the PORNTUBE trademark. Tenza’s employees, contractors and service providers are not, in any way, relevant to the legal and factual inquiry of Calista’s claims.

**Topic Category 16:**

As explained above, Tenza’s income from its PORNTUBE mark is not relevant to Calista’s claims. To the extent that it might be construed as relevant to Tenza’s damages claim against Calista (if appropriately narrowed), Tenza elects as its measure of damages for Calista’s infringement Calista’s gross-income received from its illegal exploitation of Calista’s trademark, off-set by its provable cost of sales.

**Topic Category 17:**

As Calista has no tenable damages claim against Tenza, none of the information requested by this topic category is relevant.

**Topic Category 18:**

We will allow limited inquiry into the nature of Tenza, sufficient to allow Calista to determine whether Tenza has standing to pursue its counterclaims, and whether Calista has named the real party in interest in its Complaint. Additional information beyond that is not relevant to Calista’s declaratory judgment claims.

Our objections to the document requests follow the concerns expressed above, and as stated in our written response to Calista’s previously-served document requests.

Unlike our previous discovery disputes, we do not believe that these issues are best resolved on an informal basis in a quick telephone call with Judge Simon. Our intention was to seek a protective order directed to these issues on, essentially, an *ex parte* basis. However, I suspect that your dissatisfaction with Tenza’s responses is mostly directed to these issues as well. Of course, we are prepared to appear on February 5<sup>th</sup> and 6<sup>th</sup>, as previously agreed. However, I think it is in both parties’ interests to resolve these issues prior to the upcoming depositions. Postponing long enough, e.g. until the 27<sup>th</sup> and 28<sup>th</sup>, as you’ve suggested, to allow a complete, albeit expedited, briefing schedule, as well as an opportunity for oral argument. As I noted in my earlier email, I have to confirm the client’s availability on those dates, though I can promise that, should our witness(es) have prior commitments that wouldn’t allow attendance, we will identify alternative dates, either earlier or shortly later, so as not to introduce any significant delay.

Please let me know your thoughts on this matter.

I am also available to meet-and-confer, on both your issues and our proposed protective order, at your convenience, though it is probably best for all concerned if we do so sooner rather than later.

It was nice to finally meet you face-to-face, and please thank Val for the drinks. Anna and I look forward to reciprocating in Barcelona.

Best regards,

Paul

Paul N. Tauger

**THE ECLIPSE GROUP LLP**

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**NOTE:** In certain circumstances, our spam filters may inadvertently block or quarantine legitimate emails from clients and associates. Accordingly, if your email contains important and urgent instructions and if we fail to acknowledge receipt of your email within 1 working day, please send your instructions to us by facsimile at 818.332.4205 or contact us by telephone at 818.488.8140.

**CONFIDENTIALITY NOTICE:** This message is being sent by or on behalf of a lawyer. It is intended for the exclusive use of the individual or entity that is the named addressee and may contain information that is privileged or confidential, or otherwise legally exempt from disclosure. If you are not the named addressee or an employee or agent responsible for delivering this message to the named addressee, you are not authorized to read, print, copy, retain or disseminate this message or any part of it. If you have received this message in error, please notify us immediately by e-mail, by telephone at 818.488.8140, or by facsimile at 818.332.4205, and discard any paper copies of this message.

**TREASURY NOTICE:** As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.

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Date: February 265-276, 2014

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Page 1  
Calista's 1st Amended Notice  
of 30(b)(6) Deposition of Tenza

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| /s/ Matthew Shayefar

Matthew Shayefar

Valentin Gurvits

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*Pro Hac Vice*

01/2810/2014

Date

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**TOPIC CATEGORY NO. 2** - The details of Tenza’s purchase and/or receipt of the Putative Mark and the porntube.com domain name from EMC Ideas, Inc., including the individuals involved in the transaction on both sides, the terms of any and all agreements between the parties, whether the transaction was an arms-length transaction, whether the two companies have any overlap in ownership, management or employees, and what due diligence Tenza performed on the strength and/or validity of the Putative Mark prior to gaining control/ownership of it.

**TOPIC CATEGORY NO. 3** - All inquiries, due diligences, surveys, evaluations, investigations and studies conducted by Tenza or EMC Ideas, Inc. (or anyone acting for or on their behalf) that refer or relate in any manner to the Putative Mark.

**TOPIC CATEGORY NO. 4** - Efforts taken by Tenza to enforce any trademark or related rights in the Putative Mark, including the issuance of any cease-and-desist demands or letters, the institution of arbitration (including UDRP proceedings), and the filing of lawsuits against third

parties in any jurisdiction. Deponent should be aware of all dates for each effort capable of identifying dates of each effort to enforce by reference to documents or otherwise.

**TOPIC CATEGORY NO. 5** - The relationship between Tenza and Calista prior to the institution of the UDRP proceedings by Tenza against Calista, including the services performed by each party, the compensation of each party, the individuals at each party responsible for the relationship and communications between the parties.

**TOPIC CATEGORY NO. 6** - The operation and capabilities of the porntube.com website affiliate program, including its technical capabilities tracking of domain names sending traffic to the porntube.com website, the number of affiliates in the program, the amounts paid to affiliates, the number of visitors received through the affiliate program and whether and how often affiliate websites are reviewed.

**TOPIC CATEGORY NO. 7** - The PORNOTUBE mark and Tenza's actions and omissions related thereto, including any and all agreements between Tenza (or its predecessor-in-interest EMC Ideas, Inc.) and WMM Holdings, LLC (or any predecessor-in-interest to the PORNOTUBE mark).

**TOPIC CATEGORY NO. 8** - The damages that Tenza contends it has sustained from the unlawful conduct that Tenza attributes to Calista.

**TOPIC CATEGORY NO. 9** - DreamStar Cash SL, including Tenza's relationship with that entity and that entity's relationship with the porntube.com website and the porntube.com website affiliate program.

**TOPIC CATEGORY NO. 10** - Tenza's marketing, advertising and promotional efforts for all services and products offered by Tenza under the Putative Mark.

**TOPIC CATEGORY NO. 11** - Tenza's selection and use of the Putative Mark, the porntube.com domain name, and the nature of the Putative Mark, and the Registration.

**TOPIC CATEGORY NO. 12** - Tenza's awareness of Calista's alleged use of the Putative Mark in any context prior to April of 2013.

**TOPIC CATEGORY NO. 13** - Demographic information about the visitors to the porntube.com website, including such characteristics as gender, age, hobbies, interests, occupation, as well as any tracking of these data by Tenza.

**TOPIC CATEGORY NO. 14** - For the period from 2005 to the presentFrom the date of Tenza's organization, identification of all its personnel who are employed by, contracted to, or otherwise perform services for Tenza, including the position held, services performed, reporting hierarchy and contact information.

**TOPIC CATEGORY NO. 15** - The date and circumstances under which Tenza first became aware of each of the Disputed Domains.

**TOPIC CATEGORY NO. 16** - The source and amount of all income to Tenza in connection with the Putative Mark from 2005-Tenza's organization to the present.

**TOPIC CATEGORY NO. 17** - The identity of all persons and/or entities who have an ownership interest in, or otherwise receive income from, Tenza from 2005-the date of Tenza's organization to the present.

**TOPIC CATEGORY NO. 18** - The information provided by Tenza in its Fed. R. Civ. P. 7.1 Statement; namely, who and what is Tenza's corporate structure, when it was first organized, and identities of its chief operating officer and any other top decision makers, including their titles and their relationship to Tenza, (i.e., whether they are employees, officers, directors, agents and/or independent contractors) who makes its decisions, and all persons involved in the business of Tenza.

**TOPIC CATEGORY NO. 19** – Any instances of actual consumer confusion between Calista's websites, products and/or services and Tenza's websites, products and/or services or instances wherein consumers have questioned, suggested, implied or inferred any connection between Calista and Tenza.

**TOPIC CATEGORY NO. 20** - Licensing of the Putative Mark.

Val Gurvits | Matthew Shayefar | Boston Law Group, PC  
825 Beacon Street, Suite 20 | Newton Centre, MA 02459  
617-928-1800 | vgurvits@bostonlawgroup.com | matt@bostonlawgroup.com

Page 9  
Calista's 1st Amended Notice  
of 30(b)(6) Deposition of Tenza

| **Val Gurvits | Matthew Shayefar | Boston Law Group, PC**  
| 825 Beacon Street, Suite 20 | Newton Centre, MA 02459  
| 617-928-1800 | [vgurvits@bostonlawgroup.com](mailto:vgurvits@bostonlawgroup.com) | [matt@bostonlawgroup.com](mailto:matt@bostonlawgroup.com)

Page **10**  
Calista's 1st Amended Notice  
of 30(b)(6) Deposition of Tenza

**Exhibit C**  
Page 10 of 13

**EXHIBIT B**

**DOCUMENT REQUEST NO. 1** - All documents concerning, referencing, referring or relating to you obtaining and/or purchasing the Putative Mark, the Registration and all rights related thereto, including any documents related to due diligence conducted in connection with obtaining and/or purchasing the Putative Mark.

**DOCUMENT REQUEST NO. 2** - All documents concerning, referencing, referring or relating to pornotube.com, the PORNOTUBE mark or the owner of either, and any communications between you on the one hand and the registrant of the PORNOTUBE mark on the other hand.

**DOCUMENT REQUEST NO. 3** - All documents constituting, concerning, referencing, referring or relating to legal actions (including lawsuits, cease and desist letters, UDRP proceedings and arbitration proceedings) taken by you or any predecessor of interest (including EMC Ideas, Inc.) in the Putative Mark, relating to or concerning the enforcement of the Putative Mark, in any jurisdiction.

**DOCUMENT REQUEST NO. 4** - All communications, or documents referencing communications, with any person whom you have alleged has infringed the Putative Mark.

**DOCUMENT REQUEST NO. 5** - All documents constituting, concerning, referencing, referring or relating to any communication, oral or written, received by Tenza from any person

which suggests, implies, or infers any connection or association between Tenza and Calista, or which inquires as to whether there is or may be such a connection or association.

**DOCUMENT REQUEST NO. 6** - All documents constituting, concerning, referencing, referring, relating or responding to any confusion between Calista's websites, products and/or services and Tenza's websites, products and/or services.

**DOCUMENT REQUEST NO. 7** - Documents sufficient to determine the month-to-month funds paid to affiliates of the porntube.com affiliate program and the identity of said affiliates.

**DOCUMENT REQUEST NO. 8** - Documents sufficient to determine the month-to-month number of visitors to the porntube.com website that arrived there through the porntube.com affiliate program.

**DOCUMENT REQUEST NO. 9** – All documents constituting, reflecting, referencing, referring or relating to payments you have made to Calista.

**DOCUMENT REQUEST NO. 10** - Documents sufficient to evidence all affiliations between Tenza and DreamStar Cash SL.

**DOCUMENT REQUEST NO. 11** - Documents sufficient to evidence all affiliations between Steve Matthysen and Tenza.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically

via email on all counsel of parties of record this 2810th day of January, 2014.

/s/ Matthew Shayefar  
Matthew Shayefar, Esq.

**Morrow, Beth**

---

**From:** Paul N. Tauger <pnt@eclipsegrp.com>  
**Sent:** Tuesday, January 28, 2014 10:23 AM  
**To:** Matthew Shayefar; Anna M. Vradenburgh; Newman, Devon Z.; Connie Limperis  
**Cc:** Sean Ploen; Thomas Freedman; Val Gurvits  
**Subject:** RE: Amended Deposition Notices

Thank you, Matt.

Two points:

1. As I told you yesterday, I had cleared the 27<sup>th</sup> and 28<sup>th</sup> with my client, and did not think the 26<sup>th</sup> and 27<sup>th</sup> would present a problem. However, I still need to confirm that.
2. Also as I've told you, we are accepting service of the deposition notices of Mr. Matthysen and Mr. Cardone pursuant to your ability to name specific personnel of a corporation pursuant to Fed. R. Civ. Pro. 30(b)(6), and not in their capacities as individuals. Neither Mr. Matthysen nor Mr. Cardone are parties to this litigation and this office is not authorized to accept service of process on their behalf. Accordingly, they will appear, and be prepared to testify, as to their involvement with Tenza and the pertinent facts of this litigation but will not, under any circumstances, respond to questions that are unrelated to the issues in this litigation.

Finally, with respect to Topic Category No. 16 (and related topics) I was under the impression that we had stipulated at yesterday's meet-and-confer that Tenza's damages would be measured, not by any alleged loss of income resulting from Calista's illegal acts, but by the lost sales represented by visitors to Calista's infringing domains. Please confirm that you will revise the deposition notice accordingly.

Best regards,

Paul

**From:** [mshayefar@gmail.com](mailto:mshayefar@gmail.com) [mailto:[mshayefar@gmail.com](mailto:mshayefar@gmail.com)] **On Behalf Of** Matthew Shayefar  
**Sent:** Tuesday, January 28, 2014 9:23 AM  
**To:** Paul N. Tauger; Anna M. Vradenburgh; Newman, Devon Z.; Connie Limperis  
**Cc:** Sean Ploen; Thomas Freedman; Val Gurvits  
**Subject:** Amended Deposition Notices

Dear Counsel,

Please find the amended deposition notices for Tenza, Mr. Matthysen and Mr. Cardone. You'll find that I've attached a version of the 30(b)(6) notice with changes marked.

Best,

Matthew Shayefar

Boston Law Group, PC  
825 Beacon Street, Suite 20 | Newton Centre, MA 02459  
Direct: (617) 928-1806 | Tel: (617) 928-1800 | Fax: (617) 928-1802  
[matt@bostonlawgroup.com](mailto:matt@bostonlawgroup.com)

The contents of this message and any attachments are confidential and intended only for the addressee(s). This message may also be subject to attorney-client privilege. If you received this message in error, please notify Boston Law Group, PC immediately and destroy the original message. Boston Law Group, PC | Tel: (617) 928-1800 | E-mail: [info@bostonlawgroup.com](mailto:info@bostonlawgroup.com)

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**Matthew Shayefar** (*pro hac vice*) matt@bostonlawgroup.com  
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**Sean Ploen** (*pro hac vice*) sploen@ploen.com  
**Ploen Law Firm, PC**  
100 South Fifth Street, Suite 1900  
Minneapolis, MN 55402  
Tel: (651) 894-6800 | Fax: (651) 894-6801

Attorneys for Plaintiff and Counter-defendant Calista Enterprises Ltd.

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON – PORTLAND DIVISION

**CALISTA ENTERPRISES LTD.,**  
a Republic of Seychelles company,

Plaintiff/Counter-defendant,

- v. -

**TENZA TRADING LTD.,**  
a Cyprus company,

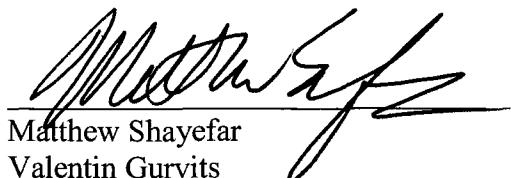
Defendant/Counterclaimant.

Case No. 3:13-cv-01045-SI

CALISTA ENTERPRISES LTD.’S NOTICE  
OF SUBPOENA TO PRODUCE  
DOCUMENTS, INFORMATION OR  
OBJECTS IN A CIVIL ACTION PURSUANT  
TO FEDERAL RULE OF CIVIL  
PROCEDURE 45 TO GODADDY.COM, LLC

PLEASE TAKE NOTICE THAT, pursuant to Rule 45 of the Federal Rules of Civil Procedure, Plaintiff and Counter-Defendant Calista Enterprises Ltd. (“Calista”) will serve a subpoena commanding the production of document and things to GoDaddy.com, LLC. The

documents to be produced are the complete historical registration information for the <porntube.com> domain name and billing information. The document is to be produced by February 19, 2014 at the offices of Boston Law Group, PC, 825 Beacon Street, Suite 20, Newton Centre, Massachusetts 02459. A copy of the Subpoena is attached hereto.



Matthew Shayefar  
Valentin Gurvits  
Boston Law Group, PC  
825 Beacon Street, Suite 20  
Newton Centre, MA 02459  
Tel: 617-928-1806  
Fax: 617-928-1802  
matt@bostonlawgroup.com  
vgurvits@bostonlawgroup.com  
*Pro Hac Vice*

01/29/2014

Date

**BOSTON LAW GROUP, PC**

ATTORNEYS AT LAW

Main (617) 928-1800

825 BEACON STREET, SUITE 20  
NEWTON CENTRE, MASSACHUSETTS 02459

Fax (617) 928-1802

**Via First Class Mail, Facsimile and Email**

January 29, 2014

Compliance Department  
GoDaddy.com, LLC  
14455 North Hayden Rd., Suite 219  
Scottsdale, AZ 85260  
Fax: 480-624-2546  
domaindisputes@godaddy.com

**Re: Calista Enterprises Ltd. v. Tenza Trading Ltd., No. 13-CV-01045-SI (D. Or.)  
Subpoena Duces Tecum**

Dear GoDaddy Compliance Department,

I represent Calista Enterprises Ltd. in its above referenced suit with Tenza Trading Ltd. Enclosed is a subpoena for copies of the complete registration information for the <porntube.com> domain name and the billing information for the account associated with that domain name.

We have issued the subpoena in order to determine the history of the use of the porntube.com domain name and the individuals and companies associated with its registration. Defendant Tenza Trading Ltd. ostensibly owns the website available at the porntube.com domain name.

Please feel free to send the responsive documents to me in digital format to matt@bostonlawgroup.com and feel free to contact me should you have any questions concerning this matter. My direct phone number is 617-928-1806.

Thank you in advance for your assistance in this matter.

Very Truly Yours,



Matthew Shayefar, Esq.

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

## UNITED STATES DISTRICT COURT

for the

District of Arizona 

Calista Enterprises Ltd.

\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)  
\_\_\_\_\_)*Plaintiff*

v.

Tenza Trading Ltd.

*Defendant*

Civil Action No. 13-CV-01045-SI (D. Or.)

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

GoDaddy.com, LLC  
14455 North Hayden Road, Suite 219, Scottsdale, Arizona 85260

(Name of person to whom this subpoena is directed)

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Exhibit A hereto.

Place: Boston Law Group, PC 825 Beacon Street, Suite 20, Newton Centre, MA 02459	Date and Time: 02/19/2014 9:00am
--	-------------------------------------

**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/29/2014

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) \_\_\_\_\_

Calista Enterprises, Ltd. \_\_\_\_\_, who issues or requests this subpoena, are:

Matthew Shayefar, Esq. | Boston Law Group, PC | 825 Beacon Street, Suite 20, Newton Centre, MA 02459 | matt@bostonlawgroup.com | Tel: 617-928-1806 | Fax: 617-928-1802

**Notice to the person who issues or requests this subpoena**

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 12/13) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 13-CV-01045-SI (D. Or.)

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for (*name of individual and title, if any*) \_\_\_\_\_  
on (*date*) \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_

\_\_\_\_\_  
on (*date*) \_\_\_\_\_ ; or \_\_\_\_\_

I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
*Server's signature*

*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

## Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

**(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

(A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

**Exhibit A to**  
**Calista's Subpoena to GoDaddy.com, LLC**

**DEFINITIONS**

1. The term "Complete Historical Registration Information" means all historical information about the domain name since its original registration, including:
  - i. the registrant: name, address, email address, phone number and fax;
  - ii. the administrative contact: name, address, email address, phone number and fax;
  - iii. the technical contact: name, address, email address, phone number and fax;
  - iv. the creation date;
  - v. the (last) update date;
  - vi. the expiration date;
  - vii. the domain server(s); and
  - viii. the GoDaddy account associated with the domain, including the account holder name, address, email address and phone number.
2. The term "document" means all written, reported, recorded, or graphical matter, however produced and reproduced, within the meaning of Rule 34 of the Federal Rules of Civil Procedure and Rule 1001 of the Federal Rules of Evidence, including information generated or stored electronically, now or at any time in your possession, custody or control, or that of your agents, attorneys or representatives. "Document" shall also refer to things to the extent a thing is responsive to a request.

**INSTRUCTIONS**

1. With respect to the following requests, if the documents to be produced are electronically stored information, please provide the information either as raw data along with all codes and programs from translating it into usable form, or in a finished usable form, including all necessary glossaries, keys and indices for interpretation of the material.
2. Please provide a certification authenticating all documents produced, including how the data in the documents were obtained and whether such documents and data were kept in the ordinary course of business.

**DOCUMENTS REQUESTED**

- No. 1. The Complete Historical Registration Information for the porntube.com domain name.
- No. 2. Documents reflecting or referring to billing information, credit card information, PayPal account information, electronic payment information and bank account information for the porntube.com domain name registration and any Internet Service Provider services.

No. 3. All documents reflecting or referring to any contractual or business relationship between GoDaddy and any registrants of the porntube.com domain name or any other party in connection with the porntube.com domain name.

No. 4. All documents which reference, refer or relate to the porntube.com domain name.

No. 5. All documents memorializing or reflecting communications between GoDaddy and any other entity or person in connection with the porntube.com domain name.

No. 6. All logs, records, metrics and other data that reference, refer or relate to the porntube.com domain name.

No. 7. Documents reflecting or referring to any other services provided by GoDaddy in relation to the porntube.com domain name.

**Certificate of Service**

The undersigned certifies that the foregoing document - CALISTA ENTERPRISES LTD.'S NOTICE OF SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION OR OBJECTS IN A CIVIL ACTION PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 45 TO GODADDY.COM, LLC – was served January 29, 2014 via Email on the following persons:

**Devon Zastrow Newman**

Schwabe Williamson & Wyatt, PC  
1600-1900 Pacwest Center  
1211 SW Fifth Avenue  
Portland, OR 97204  
(503) 796-2944  
(503) 796-2900 (fax)  
[dnewman@schwabe.com](mailto:dnewman@schwabe.com)

**Paul Nathan Tauger**

The Eclipse Group LLP  
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Irvine, CA 92614  
949-851-5000  
949-851-5051 (fax)  
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**Anna M. Vradenburgh**

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818-488-8146  
818-332-4205 (fax)  
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Matthew Shayefar, Esq.

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**Valentin Gurvits** (*pro hac vice*) vgurvits@bostonlawgroup.com  
**Matthew Shayefar** (*pro hac vice*) matt@bostonlawgroup.com  
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**Sean Ploen** (*pro hac vice*) sploen@ploen.com  
**Ploen Law Firm, PC**  
100 South Fifth Street, Suite 1900  
Minneapolis, MN 55402  
Tel: (651) 894-6800 | Fax: (651) 894-6801

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON – PORTLAND DIVISION

**CALISTA ENTERPRISES LTD.,**  
a Republic of Seychelles company,

Plaintiff/Counter-defendant,  
- v. -

**TENZA TRADING LTD.,**  
a Cyprus company,

Defendant/Counterclaimant.

Case No. 3:13-cv-01045-SI

**CALISTA ENTERPRISES LTD.’S  
OBJECTIONS AND RESPONSES TO  
TENZA TRADING LTD.’S FIRST SET OF  
INTERROGATORIES**

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Plaintiff and Counter-Defendant Calista Enterprises Ltd. (“Calista”), by and through its undersigned counsel, hereby objects and responds to Defendant and Counterclaimant Tenza Trading Ltd.’s (“Tenza”) First Set of Interrogatories to Plaintiff and Counter-Defendant Calista Enterprises Ltd. (“Interrogatories”).

porntubeport.com, sexymatureporntube.com, suckporntube.com, bdsmporntubes.com, porntuberemake.com, sexoporntube.com, emeraldporntube.com, matureporntubes.org, free-gay-porntube.com, viewporntube.com, gotgayporntube.com, asianporntubes.net, bigporntube.info, and bbwporntube.biz.

Calista is also aware of the broad generic use of the word “porn” to indicate “pornography,” “pornographic content” or “adult content,” and use of the word “tube” to indicate “television” or a website offering streaming video content.

Calista explicitly reserves the right to supplement its response to this Interrogatory as it learns of more generic and/or merely descriptive uses of the Putative Mark.

**INTERROGATORY NO. 2:**

Please identify, by domain name, registrar and DATE of registration, all internet domains for which YOU now have, or, in the past 5 years have had, an ownership interest, managed or otherwise controlled, and that include in the domain name the word(s), “porntube” or “porn tube.”

**OBJECTIONS:**

Calista objects to the extent that the Interrogatory is overbroad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Calista objects to the Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine or any other privilege and will not produce any such information. Calista objects to the Interrogatory to the extent that it calls for a determination of an issue of law.

**RESPONSE:**

Subject to, and without waiving these objections and the General Objections, in the past 5

years Calista has owned, managed or otherwise controlled only the following Internet domain names that include the word(s) “porntube” or “porn tube.” The dates following each domain indicate the date the domain was first registered by Calista:

1. 69porntube.com – March 22, 2011
2. bonusporntube.com – January 19, 2010
3. bookporntube.com – March 4, 2011
4. boxporntube.com – March 24, 2010
5. cubeoporntube.com – November 11, 2011
6. directporntube.com – March 24, 2010
7. freshporntube.com – June 24, 2009
8. goldporntube.com – September 29, 2009
9. kissporntube.com – March 22, 2011
10. largeporntube.com – March 24, 2010
11. lustporntube.com – September 29, 2009
12. pipeporntube.com – March 24, 2010
13. royalporntube.com – September 18, 2011

**INTERROGATORY NO. 3:**

Please identify “AlexZ Traffic,” as referenced in paragraph 16 of YOUR Complaint, including its relationship to Calista Enterprises Ltd., its entity status, its legal address, its country of citizenship, and its owners, officers, directors and managers, including their addresses and countries of residence.

**OBJECTIONS:**

Calista objects to the Interrogatory to the extent that it calls for a determination of an

**INTERROGATORY NO. 11:**

Please describe, in detail, all damages YOU contend you have sustained from unlawful conduct YOU attribute to Tenza, including the nature of the damage, the DATE the damage was sustained, the dollar amount of the damage, and the specific conduct of Tenza that resulted in the damage.

**OBJECTIONS:**

Calista objects to this Interrogatory on the basis that “damages” is ambiguous and undefined. Calista objects to this Interrogatory to the extent that it implies or presumes that Calista ever stated that its damages specifically resulted from “unlawful conduct.” Calista objects to the extent the Interrogatory purports to require Calista to disclose information that is not within Calista’s possession, custody, or control. Calista objects to the Interrogatory to the extent that it calls for a determination of an issue of law.

**RESPONSE:**

Subject to, and without waiving these objections and the General Objections, Calista responds as follows:

Calista suffered a loss of revenues that Calista would have otherwise enjoyed from its participation in Tenza’s PornTube.com Affiliate Program, starting on the date of the filing of the UDRP Complaint and arising out of Tenza’s filing of the UDRP Complaint. Calista suffered further losses as a result of the incurrence of legal fees and other expenses related to Tenza’s improper and extra-legal attempt on or about July 16, 2013 to force the registrar for the domains in dispute in the instant litigation to transfer Calista’s Domains, despite the pending litigation before this Court. The value of Calista’s Websites and domain names is also undermined and decreased as the result of Tenza’s actions and Calista will not be able to sell these assets to a

third party because of the cloud cast over them by Tenza. Calista's damages are continuing. Calista will be able to determine the dollar amount of damages pending further discovery.

Calista explicitly reserves the right to supplement its response to this Interrogatory pending further discovery.

**INTERROGATORY NO. 12:**

Please describe, in detail, what YOU understand to be the target demographic for the services and/or products that YOU offer on websites owned, controlled, and managed by YOU, and that include in their URLs the words, "porn" and "tube" in any combination.

**OBJECTIONS:**

Calista objects on the basis that "target" and "demographic" are ambiguous and undefined. Calista objects to the extent that the Interrogatory is overbroad, unduly burdensome and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Calista objects to the extent that it seeks information regarding any website other than the 13 websites at issue in this litigation.

**RESPONSE:**

Subject to, and without waiving these objections and the General Objections, Calista responds that the target demographic for the services and/or products Calista offers on the 13 websites at issue in this litigation are users of the Internet who are legally permitted to access the content on the websites, and that to the best of Calista's knowledge, such users are of all sexes, legal ages, races, ethnicities and religions and that they come from a wide variety of geographical locations.

**INTERROGATORY NO. 13:**

Please describe, in detail, what YOU understand to be the target demographic for the

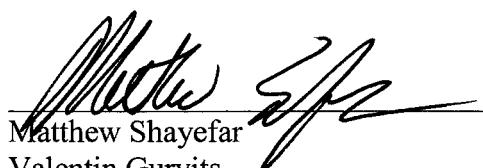
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY, THIS 29th DAY OF OCTOBER, 2013.



---

Alexander Zhukov  
On behalf of Calista Enterprises Ltd.

As to all objections:



Matthew Shayefar  
Valentin Gurvits  
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*Pro Hac Vice*

10/29/13  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served electronically via email on all counsel or parties of record on the attached service list this 29th day of October, 2013.



Matthew Shayefar, Esq.

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Attorneys for Defendant Tenza Trading Ltd.

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**CALISTA ENTERPRISES LTD**, a  
Republic of Seychelles Company,

Case No. 3:13-cv-01045-SI

Plaintiff,

vs.

**TENZA TRADING LTD.**, a Cyprus  
Company,

**TENZA TRADING LTD.'S  
OBJECTIONS AND RESPONSES TO  
CALISTA ENTERPRISES LTD'S FIRST  
SET OF INTERROGATORIES**

Defendant.

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Pursuant to Federal Rule of Civil Procedure 33, Tenza Trading Ltd. ("Tenza") serves these Objections and Responses to Calista Enterprises Ltd ("Calista") First Set of Interrogatories ("Interrogatories"), as follows:

interest EMC Ideas, Inc.) and WMM Holdings, LLC (or any predecessor in interest of the PORNOTUBE mark).

**RESPONSE:** Tenza incorporates by reference its general objections as if fully set forth herein. Tenza further objects to this interrogatory on the ground that it is not reasonably calculated to lead to the discovery of admissible evidence and is therefore burdensome, harassing and oppressive.

**INTERROGATORY NO. 5:** Please describe, in detail, all damages you contend you have sustained from unlawful conduct you attribute to Calista, including the nature of the damage, the date the damage was sustained, the dollar amount of the damage, and the specific conduct of Calista that resulted in the damage.

**RESPONSE:** Tenza incorporates by reference its general objections as if fully set forth herein. Tenza further objects to this request as seeking expert discovery in advance of case management deadlines. Subject to and without waiving the foregoing objections, Tenza responds that its damages for trademark infringement are defined by law as Calista's profits from its use of the mark less allowable offsets. As Calista has not yet disclosed its profits, Tenza cannot, as yet, assign a dollar value to the damage it has sustained. Tenza claims that, as Calista's infringement was wilful and deliberate within the meaning of the law, Tenza is entitled, as a matter of law, to the various enhancements for trademark infringement damages as pled in the Prayer for Relief of its Counterclaim. Tenza is also entitled to statutory damages for Calista's counterfeiting of its trademark, resulting in statutory damages up to \$2 million per separate counterfeit, for a total of \$26 million. However, Tenza further responds that discovery is on-going and Tenza therefore reserves the right to supplement this response as additional relevant information is discovered and in accordance with case management deadlines.

Steve Matthyssen

Michael Cardone

However, Tenza further responds that discovery is on-going and Tenza therefore reserves the right to supplement this response as additional relevant information is discovered.

DATED this 20<sup>th</sup> day of January, 2014.

/s Devon Zastrow Newman

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Anna M. Vradenburgh, *appearing pro hac vice*  
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Facsimile: 503-796-2900

Attorneys for Defendant Tenza Trading Ltd.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing document has been sent via electronic mail on this 20<sup>th</sup> day of January, 2014, to the following counsel of record:

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*Attorneys for Plaintiff Calista Enterprises Ltd.*

\_\_\_\_\_/s Devon Zastrow Newman\_\_\_\_\_

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